

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOHNSON & JOHNSON CONSUMER  
COMPANIES, INC.,

Plaintiff,

-against-

**REPORT AND  
RECOMMENDATION**

**02-CV-6624 (DLI)**

**HARRY AINI, et al.,**

**Defendants.**

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**ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:**

In an Opinion and Order dated March 25, 2008, the Honorable Dora L. Irizarry granted plaintiff's motion for summary judgment as to some but not all of the defendants and referred the matter to the undersigned magistrate judge for a calculation of statutory damages and costs as against those defendants found to be liable on summary judgment. See 3/25/08 Opinion and Order.

Thereafter, this Court issued an order directing the parties to advise whether they objected or consented to leaving open the issue of a money judgment against the defendants adjudged to be liable until this case was resolved against the remaining defendants. See 5/5/08 Order (citing Harvey v. Home Savers Consulting Corp., No. 07-CV-2645 (JG), 2008 WL 724152, at \*1 (E.D.N.Y. Mar. 17, 2008); Montcalm Publ'g Corp. v. Ryan, 807 F.Supp. 975, 978 (S.D.N.Y. 1992)). In response, defendants have consented to so defer the damages

inquest, see 5/10/08 Letter to the Court from Michael J. Ioannou, and plaintiff has “defer[red] to the Court’s judgment on this issue.” 5/12/08 Letter to the Court from Rodney A. Brown.

Under these circumstances, and in order to avoid inconsistent damage determinations, this Court recommends that the inquest be deferred until trial or until the case has otherwise been resolved as against the remaining defendants.

Any objections to the recommendations contained in this Report and Recommendation must be filed with the Honorable Dora L. Irizarry on or before May 19, 2008. Failure to file objections in a timely manner may waive a right to appeal the District Court order. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(d), 72; Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

**SO ORDERED.**

**Dated: Brooklyn, New York**  
**May 12, 2008**

**ROANNE L. MANN**  
**UNITED STATES MAGISTRATE JUDGE**